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*Counsel for Plaintiff, Milo H. Segner, Jr.  
 As Liquidating Trustee of the PR Liquidating Trust*

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF TEXAS  
 DALLAS DIVISION**

<b>IN RE:</b>	§	
	§	
<b>PROVIDENT ROYALTIES, LLC, et al.,</b>	§	<b>Case No. 09-33886</b>
	§	<b>Chapter 11</b>
<b>Debtors.</b>	§	<b>(Jointly Administered)</b>

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<b>MILO H. SEGNER, JR., as Liquidating</b>	§	
<b>Trustee of the PR Liquidating Trust,</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	<b>Case No. 3:12-CV-01318-B</b>
	§	
<b>RUTHVEN OIL &amp; GAS, LLC,</b>	§	
<b>WENDELL HOLLAND,</b>	§	
<b>THE WENDELL AND</b>	§	
<b>KARI HOLLAND TRUST, and</b>	§	
<b>CIANNA RESOURCES, INC.</b>	§	
	§	
<b>Defendants.</b>	§	

**TRUSTEE'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

**TRUSTEE'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

TO THE HONORABLE JANE BOYLE, UNITED STATES DISTRICT JUDGE:

COMES NOW Plaintiff Milo H. Segner, Jr., as Liquidating Trustee of the PR Liquidating Trust ("Trustee"), and would show the Court as follows:

1. The Trustee filed this fraudulent transfer action in the Bankruptcy Court. Defendants obtained withdrawal of the reference by demanding a jury trial. This Motion, in its entirety, seeks recovery from Defendant Ruthven Oil & Gas, LLC ("Ruthven"), of the nearly \$49 million that was transferred to it prior to the filing of the bankruptcy.

2. Pursuant to 11 U.S.C § 548 (a)(1)(A), Count 1 of Plaintiff's First Amended Complaint ("Complaint") seeks recovery of the fraudulent transfers made to Ruthven. The Trustee must prove the following four elements:

- A transfer
- of the debtor's property
- made within two years of the bankruptcy filing
- with actual intent to hinder, delay or defraud.

3. The Trustee's Motion and Brief establish that, even after considering the facts in the light most favorable to Ruthven and drawing all reasonable inferences in their favor, there is no dispute as to any material fact that all four elements of Count 1 have been met. The first three are not in dispute, and the Trustee proves the fourth element, intent to defraud through (1) extensive accounting data and (2) guilty pleas of eleven individuals directly involved in the fraud.

4. The evidence offered in this Motion and accompanying Brief support summary judgment against Ruthven in the amount of \$48,812,882.24.

5. Under applicable law, once the transfers and intent to defraud are established, the burden shifts to the transferee to establish an affirmative defense. Ruthven has no evidence to support its affirmative defense of good faith and value, nor any other defense.

6. The summary judgment evidence submitted here includes:

- The live pleadings, for the purpose of showing the parties' contentions;<sup>1</sup>
- The Declaration of Dennis L. Roossien, Jr. and accompanying exhibits;<sup>2</sup>
- The Declaration of L. Ford Clark and accompanying exhibits;<sup>3</sup>
- Excerpts from the Deposition of Defendants Wendell Holland,<sup>4</sup> Kari Holland,<sup>5</sup> Kyle Shutt,<sup>6</sup> and Defendants' Expert James Hatcher<sup>7</sup>; and
- Ruthven's Responses to Requests for Admissions.<sup>8</sup>

7. A detailed statement of the facts, evidence, and argument in support of this Motion is included in the accompanying Brief and is incorporated here by reference.

WHEREFORE, Plaintiff prays that pursuant to FED.R.CIV.P. 56(a), this Court grant Trustee's Motion for Partial Summary Judgment and hold that Plaintiff is entitled to judgment as a matter of law on the following:

- Defendant Ruthven received transfers of \$48,812,882.24 of the Debtors' property which are avoidable under 11 U.S.C. § 548 (a) (1) (A).
- The defense of having taken for value and in good faith is not available to Ruthven; and
- The transfers are avoided pursuant to 11 U.S.C. §§ 544(b) and 548(a)(1)(A).

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<sup>1</sup> "First Amended Answer", Dkt. 43, Appx pp. 000023–000044.

<sup>2</sup> "Roossien Declaration", Appx pp. 000045–000918.

<sup>3</sup> "Clark Declaration", Appx pp. 000919–000982.

<sup>4</sup> "Holland Deposition", Appx pp. 000983–001030.

<sup>5</sup> "Kari Holland Deposition", Appx pp. 001031–001043.

<sup>6</sup> "Kyle Shutt Deposition", Appx pp. 001044–001071.

<sup>7</sup> "James Hatcher Deposition", Appx pp. 001077–001083.

<sup>8</sup> See Summary Chart and Ruthven's Responses to Requests for Admissions, Appx pp. 1084–111.

So holding would simplify this case significantly and substantially reduce the time necessary for trial.

Dated: April 21, 2014.

Respectfully submitted,

MILO H. SEGNER, JR.,  
as Liquidating Trustee of the PR Liquidating Trust,  
Plaintiff

*/s/ Michael R. Rochelle*

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One of His Counsel

Of Counsel:

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### **CERTIFICATE OF SERVICE**

I hereby certify that counsel of record for all Defendants has elected to receive electronic service, which will accordingly be accomplished automatically upon the filing hereof.

*/s/ Michael R. Rochelle*

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